

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION**

XAVIER DANIELS,

Plaintiff,

v.

WARDEN MARTY ALLEN; TREVONZA
BOBBITT; UNIT MANAGER
HUTCHINSON; ROBERT TOOLE;
VALERIE JACKSON; and COUNSELOR
BATEMAN,

Defendants.

CIVIL ACTION NO.: 6:17-cv-45

ORDER

After an independent and *de novo* review of the record, the undersigned concurs in part with the Magistrate Judge's Report and Recommendation, (doc. 11), to which Plaintiff filed Objections, (doc. 14). Plaintiff contends, among other things, that the Court should not dismiss his deliberate indifference as to his dorm assignment claims against Defendants Jackson and Hutchinson.¹ (*Id.*) Plaintiff argues that Defendants Jackson and Hutchinson, as Unit Managers, had the ability to change his dorm assignment but failed to do so. Based on this new information, the Court will assess the viability of these claims on a more complete record rather than dismissing the claims at this early stage.

Accordingly, the Court **SUSTAINS IN PART** Plaintiff's Objections and **REJECTS IN PART** the Magistrate Judge's Report and Recommendation. The Court **SUSTAINS** Plaintiff's Objections for his claims of deliberate indifference to safety as to his dorm assignment against

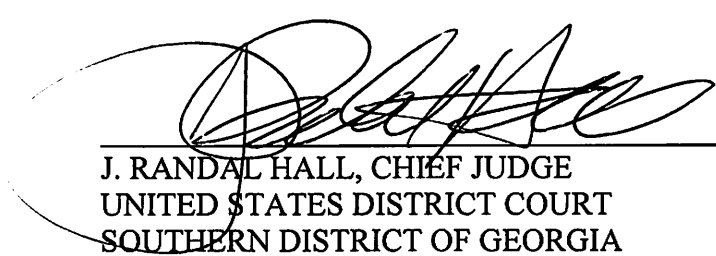
¹ Plaintiff also appears to contest the recommendation that the Court dismiss his claims against Defendants Hall and Bell. However, the Magistrate Judge correctly rejected those claims in his Report and Recommendation, and the Court need not repeat that analysis. (Doc. 11, pp. 6-7.)

Defendants Jackson and Hutchinson, and those claims shall proceed. However, the Court **OVERRULES** all other portions of Plaintiff's Objections. The Court **ADOPTS** the Magistrate Judge's Report and Recommendation, as amended herein, as the opinion of the Court.

Therefore, the Court **DISMISSES** Plaintiff's claims for: monetary damages against Defendants in their official capacities; deliberate indifference to safety for failure to intervene against all Defendants; deliberate indifference to safety as to dorm assignment against Defendant Bateman; deliberate indifference to medical needs claims as to Defendant Toole; due process claims against all Defendants, and equal protection claims against all Defendants. The Court further **DENIES** Plaintiff's claims for preliminary injunctive relief. However, Plaintiff's allegations arguably state colorable claims for relief against Defendants Allen, Bobbitt, Toole, Jackson, and Hutchinson for deliberate indifference to safety as to dorm assignment and against Defendants Allen, Bobbitt, Jackson, and Bateman for deliberate indifference to medical needs. Although a stay has been entered in this case, this stay does not affect Defendants' obligation to respond to the complaint.

The Court **DIRECTS** the United States Marshal to serve Defendant Hutchinson with a copy of Plaintiff's Second Amended Complaint, (doc. 10), the Magistrate Judge's Report and Recommendation, (doc. 11), and this Order.

SO ORDERED, this 7th day of March, 2018.



J. RANDAL HALL, CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA